

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Notice of Inquiry Re: Billing Services)))	D.T.E. 01-28 (Phase II)
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**MOTION FOR CLARIFICATION OR RECONSIDERATION OF BOSTON
EDISON COMPANY, CAMBRIDGE ELECTRIC LIGHT COMPANY AND
COMMONWEALTH ELECTRIC COMPANY, d/b/a NSTAR ELECTRIC**

I. INTRODUCTION

Pursuant to the Department of Telecommunications and Energy's (the "Department") regulations at 220 C.M.R. 1.04(5) and 1.11(10), Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Company, d/b/a NSTAR Electric ("NSTAR Electric"), hereby move for clarification or reconsideration of the Department's order in the above-referenced proceeding, dated December 14, 2001 (the "Order"). The Order directed distribution companies to file revised tariffs for allocating partial payments between distribution companies and suppliers. The language proposed by the Department for inclusion in revised tariffs will require distribution companies to allocate partial payments between distribution companies and suppliers on a pro-rata basis, in proportion to the percentage of combined charges billed to customers.

NSTAR Electric does not seek reconsideration of the Department's new partial payment allocation policy. However, because the partial payment allocation policy triggers several complex implementation issues, NSTAR Electric will require at least nine months to change its billing systems to allocate partial payments consistent with the Department's allocation formula. The Order requires the filing of tariffs to be effective

on February 1, 2002. Order at 15. NSTAR Electric seeks clarification that the implementation date of the policy (as opposed to the effective date of the tariffs) will be no earlier than the date in which a company can actually make the billing systems changes to implement the new system.¹ If the Department's Order actually requires a February 1, 2002 implementation date, NSTAR Electric requests reconsideration of this directive.

II. STANDARD OF REVIEW

The Department's standard of review for clarification of its decisions is well-settled. The Department has stated that "[c]larification of previously issued orders may be granted when an order is silent as to the disposition of a specific issue requiring determination in the order, or when the order contains language that is so ambiguous as to leave doubt as to its meaning." Boston Edison Company, D.P.U. 92-1A-B at 4 (1993); Whitinsville Water Company, D.P.U. 89-67-A at 1-2 (1989). "Clarification does not involve reexamining the record for the purpose of substantively modifying a decision." Boston Edison Company, D.P.U. 90-335-A at 3 (1992), citing Fitchburg Gas & Electric Light Company, D.P.U. 18296/18297, at 2 (1976).

The Department's standard for reviewing a motion for reconsideration is also well established. Reconsideration of previously decided issues is granted only when extraordinary circumstances dictate that the Department take a fresh look at the record for the purpose of modifying a decision reached after review and deliberation. North Attleboro Gas Company, D.P.U. 94-130-B, at 2 (1995); Boston Edison Company, D.P.U.

¹ On this date, NSTAR Electric has filed tariffs reflecting a February 1, 2002 effective date with an

(footnote continued...)

90-270-A, at 2-3 (1991); Western Massachusetts Electric Company, D.P.U. 558-A, at 2 (1987). A motion for reconsideration should bring to light previously unknown or undisclosed facts that would have a significant impact upon the decision already rendered. It should not attempt to reargue issues considered and decided in the main case. Commonwealth Electric Company, D.P.U. 92-3C-1A, at 3-6 (1995); Boston Edison Company, D.P.U. 90-270-A, at 3 (1991); Boston Edison Company, D.P.U. 1350-A, at 4 (1983). In the alternative, a motion for reconsideration may be appropriate upon a showing that the Department's disposition of an issue was the product of mistake or inadvertence. Massachusetts Electric Company, D.P.U. 90-261-B at 7 (1991); New England Telephone and Telegraph Company, D.P.U. 86-33-J, at 2 (1989); Boston Edison Company, D.P.U. 1350-A, at 5 (1983).

III. DISCUSSION

In the Order, the Department directed each distribution company to submit revised tariffs within seven days of the Order that include the following language regarding the allocation of partial payments:

A customer's payment shall be allocated between the distribution company and the competitive supplier in the following manner. The payment should first be allocated to distribution company and supplier charges in arrears in proportion to the percentage of the combined arrears represented by each charge. Any remaining payment should be allocated to distribution company and supplier current charges in proportion to the percentage of the combined current charges represented by each charge.

(...footnote continued)

October 1, 2002 implementation date.

Order at 15. The Department also directed the distribution companies to include an effective date for the revised tariff of no later than February 1, 2002. Id. As described below, NSTAR Electric cannot change its billing systems to allocate partial payments consistent with the formula until October 1, 2002.

The following procedures must be completed in order to change NSTAR Electric's billing systems to allocate partial payments for "complete billing" customers in a manner consistent with the Department's directives in the Order:

- develop the algorithm to calculate variable percentages to allocate a partial customer payment;
- modify NSTAR Electric's customer information system and its credit system, including: enhancing the integration with the payment processing system; developing a new database to track and report each customer's payment allocation for each bill; and developing a storage and online display system for use in responding to customer payment and billing inquiries.
- creation of a new database to store and retrieve customer payments, revise payment plan algorithms, track disputed supplier bill amounts, process a revised service-termination determination, and issue credit/service-termination notices.
- test the new and modified systems described above.

Because of the complexity of the changes involved, as these systems modifications are implemented, other necessary systems changes may be identified.

These changes will require the use of multiple employees from up to four departments of NSTAR Electric. NSTAR Electric estimates that it will take approximately nine months to change its billing systems in this manner.

The Order is ambiguous in that it requires a February 1, 2002 effective date for the tariffs, but is silent as to the date on which the new allocation system is to be implemented. NSTAR Electric does not believe that the Department meant to order a February 1, 2002 implementation date, in view of the need for each company to alter their systems substantially to accommodate the mandated changes. Accordingly, NSTAR Electric asks the Department to clarify the Order to state that the actual implementation date for the new payment-allocation system shall be determined for each electric company based on the time necessary to make the billing system changes required (in the case of NSTAR Electric, October 1, 2002).

In the alternative, if the Order was meant to establish a February 1, 2002 implementation date, NSTAR Electric requests reconsideration. Such a finding would have been based on the mistaken factual assumption that it would be possible for distribution companies to comply with such a date. In fact, it is not possible for NSTAR Electric to implement the changes by February 1, 2002, and therefore, reconsideration would be required.

In addition to providing the time needed to make systems changes, an October 1, 2002 implementation offers the time to resolve collaboratively certain details associated with the new policies. For example, NSTAR Electric has identified at least three implementation issues: (1) the applicability of the allocation formula to payment

plans; (2) how payments are applied to re-institute distribution service after shut-off; and (3) payment allocation in the event that charges are owed to multiple suppliers.

Regarding payment plans, distribution companies routinely allow customers with substantial arrearages to enter into monthly payment plans whereby such customers agree to pay the distribution company a set amount on a monthly basis that is applied against such customers' past charges. However, in order to apply the Department's tariff language to customers under payment plans, the distribution company will have to apply any payment both to distribution arrears and supplier arrears in order to cover both the payment plan amount and supplier arrears "in proportion to the percentage of the combined arrears represented by each charge." See Order at 15. Accordingly, in order to collect the level of monthly charges agreed upon by a customer and a distribution company in the context of a payment plan, the distribution company is responsible and is indeed required, de facto, to collect additional charges related to supplier arrears.

A similar situation arises if a distribution company has shut-off service to a customer and that customer wishes to pay distribution arrears sufficient to allow a reinstitution of service. In that instance, under the proposed tariff language, the distribution company will be required to collect both its arrears and at least a percentage of supplier arrears before such customer's service can be reinstituted. In effect, the Department's proposed tariff language requires distribution companies to collect past due charges on behalf of a supplier in order to reconnect a customer to distribution service.

The proposed tariff language also does not address a situation where a distribution company receives a customer's partial payment and such customer owes arrears to two

suppliers, the customer's current supplier and a prior supplier. If the customer owes money to the distribution company and each supplier for past charges, the tariff language does not give guidance as to how the distribution company should allocate a partial payment by that customer.

Because the Department's policy and effective date poses significant technical challenges for the distribution companies, NSTAR Electric proposes that the Department direct a Working Group of distribution companies, suppliers and customer groups to meet in the near term to discuss these and other issues relating to implementing the Department's pro-rata allocation policy. Similar to the Working Group formed to implement the Department's order regarding the provision of customer information lists to suppliers in Competitive Initiatives, D.T.E. 01-54, at 27-28 (Phase I) (October 15, 2001), a Working Group on partial payment allocation would allow distribution companies, suppliers and customer groups to develop the details associated with implementation of the Department's directives in this proceeding. This would allow the distribution companies to implement the Department's policy uniformly and better serve both suppliers and customers who will be directly affected by a pro-rata allocation of payments.

IV. CONCLUSION

For the reasons stated above, NSTAR Electric respectfully requests that the Department grant this Motion for Clarification or Reconsideration, as described herein.

Respectfully submitted,

NSTAR ELECTRIC

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